

Application No.: 10/780,087

Docket No.: 65856-0054

REMARKS

Claims 1-34 are pending. In the Office Action, claims 1, 3-5, and 7-10 were rejected under 35 U.S.C. § 102(b) as anticipated by published U.S. application 2002/0155816 ("Fodor"). Claims 12, 13, and 19-26 were rejected under 35 U.S.C. § 102(b) as anticipated by published U.S. application 2002/0119769 ("Heinonen"). Claim 2 was rejected under 35 U.S.C. § 103(a) as obvious over Fodor in view of Heinonen. Claim 11 is rejected under 35 U.S.C. § 103(a) as being obvious over Fodor. Claims 13-18 are rejected under 35 U.S.C. § 103(a) as being obvious over Heinonen. Claim 6 is rejected under 35 U.S.C. § 112 for lacking proper antecedent basis for the claim. The Office Action does not state a prior art rejection for claim 6.

Claim 6 has been amended to cure the afore-mentioned Section 112 rejection, and is therefore believed to be in condition for allowance. Further, claims 11-12 and 26 have been amended. No claims are canceled, and no other claims are amended in this paper. Claims 27-34 have been newly added. All pending claims are believed to be in condition for allowance.

I. SECTION 102 REJECTIONS**A. Claims 1-12**

Independent claim 1 stands rejected as allegedly anticipated by Fodor. Claim 1 requires in part that "the processor is programmed to retrieve at least one measurement from at least one measurement device via the wireless communications device." At a minimum, Fodor does not teach or suggest this claim limitation.

Fodor discloses "measuring data quality in a wireless communication network." (Fodor, Abstract.) Accordingly, Fodor teaches that "automated wireless data quality measurement system 102 automatically tests the quality of a data call between a wireless device 306 and a wireless data network 100." (Fodor, ¶ 47.) Fodor's wireless device 306 establishes a call over a wireless data network 100 for the purpose of testing "[t]he quality of the data call . . . in terms of how a mobile subscriber operating the wireless device 306 perceives it." (Fodor, ¶ 47.) Fodor clearly explains that wireless device 306 is included within wireless data quality measurement system 102, which also includes automated wireless data quality measurement module 314. (E.g., Fodor, Fig. 3.) Significantly, Fodor's automated wireless data quality measurement module 314 depends on the receipt of data by the wireless device 306 and

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therefore plainly is responsible for making measurements of data quality *after* data has been received over wireless data network 100. (E.g., Fodor, Fig. 4.)

In contrast to Fodor, which teaches at most retrieving raw data over a wireless network and *then* making measurements based on the raw data retrieved, claim 1 requires retrieving "at least one *measurement* from at least one measurement device *via the wireless communications device*." As Applicants' Specification (*see* ¶¶ 25-28) makes clear, the recited measurement device provides not raw data but rather data reflecting a measurement. Fodor, as noted above, teaches measuring raw data *after* the raw data has been retrieved by a wireless device 306, not retrieving a *measurement* via a wireless communications device as is required by claim 1. Further, because Fodor is directed toward measuring the quality of a data call over a wireless network, it is impossible for Fodor to teach or suggest retrieving a measurement via a wireless communications device. Until Fodor's wireless device 306 receives call data, there is nothing to be measured. Thus, in Fodor, measurements can be made only *after* data on which measurements are based are received via the wireless device 306; there simply is no measurement that could be retrieved via a wireless communications device. Fodor is therefore wholly inapplicable to claim 1.

For at least the foregoing reasons, claim 1 is in condition for allowance, as are claims 2-11 and 30-31 depending therefrom.

B. Claims 12-26

Independent claims 12 and 26 each stand rejected as allegedly anticipated by Heinonen. Claims 12 and 26, as amended, each require "at least one sensor that provides at least one output *related to a component*." Heinonen at most discloses sensors for registering "environmental phenomena." (Heinonen, ¶ 35.) Heinonen's sensors are part of measuring systems connected to base stations in a cellular radio system. Heinonen's measuring systems, in turn, are placed so as to most effectively measure a particular natural phenomenon or phenomena such as air temperature or humidity, or the degree to which dust or pollens are present. (Heinonen, ¶¶ 34-35.) Heinonen's entire disclosure being directed toward the measurement of "environmental phenomena", Heinonen in no way teaches or suggests "a sensor that selectively provides output *related to a component*."

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Accordingly, for at least the foregoing reasons, claim 12 is in condition for allowance, as are claims 13-25 and 32-34 depending therefrom. Claim 26 is similarly in condition for allowance, as are claims 27-29 depending therefrom.

II. SECTION 103 REJECTIONS

A. Claim 2

Claim 2 stands rejected as allegedly obvious over Fodor in view of Heinonen. The Examiner acknowledges that Fodor does not teach that "the measurement represents at least one output from a sensor," as is required by claim 2. The Examiner cites Heinonen as curing the deficiency of Fodor. However, the proposed combination of Fodor and Heinonen is deficient in at least two independent ways. First, Fodor and Heinonen are incapable of the combination proposed by the Examiner. Second, despite the Examiner's assertion to the contrary, Heinonen does not provide any motivation for one of ordinary skill in the art to have made the proposed modification of Fodor.

Fodor and Heinonen are incapable of combination because a sensor could not have any practical effect in the context of Fodor. As noted above, Fodor teaches receiving raw data via a wireless network and then using an automated wireless data quality measurement module 314 to analyze the raw data. Accordingly, a sensor in the context of Fodor would be pointless because the sensor would have nothing to sense or detect. Thus, Heinonen may teach a sensor for detecting environmental phenomena, but Fodor is incapable of modification with Heinonen's sensor because Fodor is simply incapable of using any sensor.

Further, the Examiner suggests that use of Heinonen's sensor "would be desirable to observe environmental phenomena which could affect users in the wireless system." (Office Action, page 6.) However, this statement, even if true, would not have suggested modifying Fodor to one of ordinary skill in the art because Fodor has absolutely nothing to do with detecting or measuring "environmental phenomena." In fact, as noted above, Fodor has absolutely nothing to do with measuring data that is detected by a sensor of any sort. Therefore, motivation to combine Fodor and Heinonen is completely lacking in the prior art of record.

For at least the two foregoing independent reasons, claim 2 is in condition for allowance.

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B. Claim 11

Claim 11 stands rejected as allegedly obvious over Fodor. The Examiner acknowledges that Fodor does not teach that "the wireless communications device is capable of being attached to at least one second measurement output device," as is required by claim 11 as amended. However, the Office Action (page 6) states that

the above limitation would not render the claims patentable over the applied reference because it merely depends on the number of measuring device one would like in the system without changing the scope of the invention in the applied reference. Therefore, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Fodor with multiple measurements for the purpose of obtaining more data about a system.

Applicants respectfully request a clarification of the Examiner's reasoning, inasmuch as it is unclear what is meant by "the invention in the applied reference." If the Examiner intends to suggest that claim 11 does not further limit claim 1, from which it depends, Applicants respectfully disagree for the reasons stated below, but moreover request clarification as to how such an alleged failure to further limit claim 1 provides a basis for the alleged motivation to modify Fodor.

In fact, claim 11 as amended plainly limits the number of measurement output devices in the claimed system. Further, regardless of whether or not the number of measurement output devices is so limited, Fodor, as explained below, is clearly incapable of the modification proposed by the Examiner, and moreover, the Examiner has supplied no motivation in any of the prior art of record for such a modification. Therefore, the Examiner has failed to state a *prima facie* case of obviousness at least because Fodor does not teach each and every recited claim limitation, and also because the Examiner has failed to provide a motivation to modify Fodor. See MPEP § 2143; *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1444 (Fed. Cir. 1991); *In re Royka*, 490 F.2d 981, 180 USPQ 560, 562 (CCPA 1972).

Fodor is incapable of the modification proposed by the Examiner because, as explained above, Fodor teaches an automated wireless data quality measurement module 314 that provides measurements with respect to raw data received over a wireless network 100. Assuming *arguendo* that Fodor's automated wireless data quality measurement module 314 reads on the recited measurement device (which it does not), Fodor teaches a single call that

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produces a single data stream (Fodor, ¶ 47), and thus multiple measurement devices would be pointless in the context of Fodor.

Moreover, the Examiner provides no support in the prior art of record for the assertion that one of ordinary skill in the art would have been motivated to modify Fodor "for the purpose of obtaining more data about a system. To the extent the Examiner is relying on Official Notice to establish the asserted motivation, Applicants seasonably request that the Examiner provide documentary evidence to support the taking of Official Notice as is required by 37 CFR § 1.104(d)(2) and MPEP § 2144.03. Additionally, even if it was desirable to "obtain more data about a system," as the Office Action states, the Examiner has not shown that such a desire would have provided motivation to modify Fodor such that "the wireless communications device is capable of being attached to at least one second measurement output device."

Accordingly, claim 11 is in condition for allowance over the art of record for at least the foregoing independent reasons.

C. Claims 13-18

Claims 13-18 stand rejected as allegedly obvious over Heinonen. The Examiner acknowledges that Heinonen does not teach any of the limitations of claims 13-18, which recite as follows:

13. The system of claim 12, wherein the processor is further programmed to convert the input to a measurement.
14. The system of claim 12, wherein the input comprises at least one analog signal.
15. The system of claim 14, wherein the analog signal is in a range from zero to approximately 5 volts.
16. The system of claim 14, wherein the analog signal is in a range from approximately four to approximately twenty milliamps.
17. The system of claim 12, wherein the input comprises at least one digital signal.
18. The system of claim 12, wherein the processor is further programmed to use a scaling function.

However, the Office Action (page 7) states that

the limitations of claims 13-18 would not render the claims patentable over the applied reference because they merely depend

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on what type of and how information is desired to be measured, without changing the scope of the invention in the applied reference. Therefore, at the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify Heinonen with multiple measurements for the purpose of obtaining more data about a system.

Again, Applicants respectfully request a clarification of the Examiner's reasoning, inasmuch as it is unclear what is meant by "the invention in the applied reference." If the Examiner intends to suggest that claims 13-18 does not further limit the claims from which they depend, Applicants respectfully disagree for the reasons stated below, but moreover request clarification as to how such an alleged failure to further limit parent claims provides a basis for the alleged motivation to modify Heinonen.

In fact, each of claims 13-18 do further limit the claimed system, claims 13 and 18 by further limiting the programming in the recited processor, and claims 14-17 by each further limiting the recited input from the sensor. Further, regardless of whether or not claims 13-18 further limit the claimed system, the Examiner has supplied no motivation in any of the prior art to modify Heinonen to meet any of the limitations of claims 13-18. Therefore, the Examiner has failed to state a *prima facie* case of obviousness at least because Heinonen does not teach each and every recited claim limitation, and also because the Examiner has failed to provide a motivation to modify Heinonen. See MPEP § 2143; *In re Vaeck*, 947 F.2d 488, 493, 20 USPQ2d 1438, 1444 (Fed. Cir. 1991); *In re Royka*, 490 F.2d 981, 180 USPQ 560, 562 (CCPA 1972).

In particular, the Examiner provides no support in the prior art of record for the assertion that one of ordinary skill in the art would have been motivated to modify Heinonen "for the purpose of having more ways to measure signals." To the extent the Examiner is relying on Official Notice to establish the asserted motivation, Applicants seasonably request that the Examiner provide documentary evidence to support the taking of Official Notice as is required by 37 CFR § 1.104(d)(2) and MPEP § 2144.03. Moreover, even if it was desirable to have "more ways to measure signals," as the Office Action states, the Examiner has not shown that such a desire would have provided motivation to modify Heinonen to meet any of the limitations required by each of claims 13-18.

Accordingly, for at least the foregoing reasons, claims 13-18 are in condition for allowance.

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CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. If the Examiner believes that a personal interview with Applicants' representative would advance prosecution of this application, the Examiner is invited to telephone the undersigned.

Applicants believe that a fee of \$144 is due with this response. For payment of this fee, please charge our Deposit Account No. 18-0013, from which the undersigned is authorized to draw, under Order No. 65856-0054. Applicants do not believe that any other fees are due with this response. However, if any other fees are due, please charge them to the aforementioned account. To the extent necessary, a petition for extension of time under 37 C.F.R. § 1.136 is hereby made, the fee for which should be charged to the aforementioned account.

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Respectfully submitted,

By 
Michael B. Stewart, Registration No.: 36,018
Charles A. Bieneman, Registration No.: 51,472
RADER, FISHMAN & GRAUER PLLC
39533 Woodward Avenue
Suite 140
Bloomfield Hills, Michigan 48304
(248) 594-0633
Attorneys for Applicant

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